



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,077	03/20/2004	David Scott Thompson		7903

42266 7590 07/27/2005

PAUL H. DEMCHICK  
PROFESSOR DEMCHICK'S PATENT SERVICES  
THE JACOB TOMLINSON HOUSE  
407 WEST BROAD STREET  
WILSON, NC 27893

EXAMINER
----------

PITARO, RYAN F

ART UNIT	PAPER NUMBER
----------	--------------

2174

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/805,077

Applicant(s)

THOMPSON, DAVID SCOTT

Examiner

Ryan F. Pitaro

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/3/2005</u>  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 1-20 have been examined.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1 and 4 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A graphical dedicated receiving unit lacks assured results and therefore is not concrete. It is not tied to a technological art, environment, or machine, instead being an abstract idea, and not tangible.

### ***Claim Objections***

4. Claim 3 is objected to because of the following informalities: in line 1 of the claim "graphical display is has not less than 20 pixels" should be "graphical display has no less than 20 pixels". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 2174

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3,4,7,11-16,18,20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 18 and 20 recite the limitation "the base station" in each of the claims. There is insufficient antecedent basis for this limitation in the claim.

Claims 4,7, and 11 recite the limitation "the base" in each of the claims. There is insufficient antecedent basis for this limitation in the claim.

Claims 4 and 7 recites the limitation "the portable units" in each of the claims. There is insufficient antecedent basis for this limitation in the claim.

Claims 12-16 recite the limitation "A use as in claim " in the preamble of each claim. There is insufficient antecedent basis for this limitation in the claim.

Claims 13,14,15 recite the limitation "the establishment" in each of the claims. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the graphical display" in line 1 of the claim. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1,2,4,6,9,12,15 are rejected under 35 U.S.C. 102(b) as being anticipated by Carissimo ("Carissimo", US 2002/0105412).

As per independent claim 1, Carissimo teaches a graphical dedicated receiving unit ([0008] lines 1-14).

As per claim 2, which is dependent on claim 1, Carissimo teaches a unit in which the unit is a transceiver ([0008] lines 1-3).

As per independent claim 4, Carissimo teaches a patron paging system including at least one graphical dedicated receiving unit ([0012] lines 1-11).

As per claim 6, which is dependent on claim 4, Carissimo teaches a system, in which at least one graphical dedicated receiving unit is powered by at least one electrochemical cell ([0024] lines 1-4).

As per claim 9, which is dependent on claim 4, Carissimo teaches a system in which at least one graphical dedicated receiving unit has sufficient memory to hold more graphical information than is displayed at a given time ([0016] lines 1-18).

As per claim 12, which is dependent on claim 4, Carissimo teaches a system in which at least one marketing message is displayed on the graphical display of at least one graphical dedicated receiving unit ([0012] lines 4-6).

Art Unit: 2174

As per claim 15, which is dependent on claim 12, Carissimo teaches a system in which the establishment using the system is a restaurant ([0012] lines 1-2).

9. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Harel et al ("Harel", US 6366195).

As per independent claim 20, Harel teaches a dedicated receiving unit in which said unit is capable of dynamically adjusting its transmission power, wherein, that dynamic adjustment of the transmission power is based, at least in part, on the strength of signals sent by the base station and received by the unit (Column 2 lines 38-49).

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 11,13,14,19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carissimo ("Carissimo", US 2002/0105412) in view of Vasquez et al ("Vasquez", US 2004/0227617).

As per claim 11, which is dependent on claim 4, Carissimo teaches displaying a message, but fails to teach an out of range message. However, Vasquez teaches at least one preset message when the unit is out of range of the signal of the base ([0033]

lines 10-21). Therefore it would have been obvious to an artisan at the time of the invention to combine the teaching of Vasquez with the system of Carissimo. Motivation to do so would have been to reduce on premises pager loss.

As per claim 13, which is dependent on claim 12, Carissimo-Vasquez teaches a marketing message displayed on at least one graphical dedicated receiving unit promoting the establishment employing the system (Vasquez, [0007] lines 7-10).

As per claim 14, which is dependent on claim 12, Carissimo-Vasquez teaches a system in which at least one marketing message displayed on the graphical display of at least one graphical dedicated receiving unit promotes the establishment other than that employing the system (Vasquez, [0039] lines 8-15)

As per claim 19, which is dependent on claim 1, Carissimo-Vasquez teaches a unit which is capable of creating at least two readably distinguishable sounds (Vasquez, Figure 3).

12. Claims 5,7,8,10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carissimo ("Carissimo", US 2002/0105412) in view of Showghi et al ("Showghi", US 2003/0050854).

As per claim 5, which is dependent on claim 4, Carissimo teaches an identification number for all of the portable units, but fails to teach an electronic serial number. However, Showghi teaches a system in which at least one graphical dedicated receiving unit has an electronic serial number for unique identification which allows signals from the base to be used selectively by less than all of the portable units ([0053]

Art Unit: 2174

lines 7-11). Therefore it would have been obvious to an artisan at the time of the invention to combine the teaching of Showghi with the system of Carissimo. Motivation to do so would have been to provide unique identification so that signals do not get crossed and the wrong patron is notified, which can result in angry customers.

As per claim 7, which is dependent on claim 4, Carissimo-Showghi teaches a system in which at least one graphical dedicated receiving unit has means for the user to cause the portable unit to send a radio frequency signal and the base is capable of receiving that signal (Figure 5, [0078] lines 1-15).

As per claim 8, which is dependent on claim 8, Carissimo-Showghi teaches a system in which said means is a pressure sensing switch (Figure 5, keypad).

As per claim 10, which is dependent on claim 4, Carissimo-Showghi teaches a system in which at least one graphical dedicated receiving unit is capable of synthesizing the frequency at which it receives signals ([0078] lines 1-15).

As per claim 16, which is dependent on claim 12, Carissimo-Showghi teaches a system in which the conveyor of the system is compensated, at least in part, by rights involving advertising using the system ([0090] lines 9-12).

13: Claims 17,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carissimo ("Carissimo", US 2002/0105412) in view of Harel et al ("Harel", US 6366195).

As per claim 17, which is dependent on claim 2, Carissimo fails to teach a dynamic adjustment of transmission power. However, Harel teaches a unit which is capable of dynamically adjusting its transmission power (Column 2 lines 38-49).



Art Unit: 2174

Therefore it would have been obvious to an artisan at the time of the invention to combine the teaching of Harel with the unit of Carissimo. Motivation to do so would have been to provide a way to eliminate interference among subscriber units that transmit to the same base station.

As per claim 18, which is dependent on claim 17, Carissimo-Harel teaches a unit in which the dynamic adjustment of the transmission power is based, at least in part, on the strength of signals sent by the base station and received by the unit (Harel, Column 2 lines 38-49).

14. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carissimo ("Carissimo", US 2002/0105412) in view of Borst ("Borst", The Shape of Content).

As per claim 3, which is dependent on claim 1, Carissimo fails to teach the graphical display has no less than 20 pixels in each of two dimensions. However, Borst teaches a graphical receiving unit having at least 20 pixels in each of two dimensions (Page 1 PDA with screen of 160x160). Therefore it would have been obvious to an artisan at the time of the invention to combine the teaching of Borst with the teaching of Carissimo. Motivation to do so would have been to provide a compact yet readable screen size.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US005999088A teaches a method of providing active entertainment for persons waiting for a service such as patrons at a restaurant.
- US 20040068441A1 teaches a patron service system that employs graphical units for communicating with staff members.
- US 20050065851A1 teaches graphical mobile devices for communicating in a restaurant environment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan F. Pitaro whose telephone number is 571-272-4071. The examiner can normally be reached on 7:00am - 4:30pm M-Th, and alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 571-272-4063. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2174

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ryan Pitaro  
Art Unit 2174  
Patent Examiner

RFP

*Kristine Kincaid*  
KRISTINE KINCAID  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100